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8 IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON
9

10 In re:

11 Lori D. Baczkowski,

12 Debtor.
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Case No. 15-62839-fra13

**TRUSTEE'S OBJECTION TO
CONFIRMATION; AND MOTION
TO DISMISS**

14 NALIKO MARKEL, trustee, objects to confirmation of the debtor's chapter 13 plan
15 dated 8/20/15 (docket #13; filed 8/31/15). The reasons for objection are:

16 1. **Plan Payments.** The debtor has not made her first plan payment of \$900,
17 which came due on 9/19/15.

18 2. **Feasibility / Income Issues.**

19 a. *Arrearage claim.* In Plan Paragraph 2(b)(1) the debtor proposes to pay Bank of
20 New York Melon's pre-petition arrearage claim, estimated at \$61,884. Including the
21 trustee's commission, approximately \$67,500 will need to be paid through the plan within
22 the five year period that the plan is allowed to run. The proposed plan payments of \$900 per
23 month for five years total \$54,000, leaving a deficit of about \$13,500.

24 b. *Business Income.* The debtor owns and operates her own house cleaning business.
25 She has filed an Exhibit D-2 that outlines the business income and expenses. The D-2
26 shows an annual net operating loss of \$5,255 – or \$438 per month. The debtor also includes

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1 \$927 in gross income as wages on line 2 of Schedule I; however, it appears that this income
2 is also from the house cleaning business (the debtor has deducted operating expenses for the
3 business on line 5h). The D-2 does not indicate that the debtor pays herself a wage. With
4 the inconsistencies in the paperwork, the trustee cannot determine whether the business is
5 profitable, how much net income the debtor receives from the business, or whether the plan
6 is feasible.

7 c. *Rental Income*. The debtor includes \$1,200 in rental income on Schedule I, line
8 8(a). She testified at the meeting of creditors that this income will end in January 2016. The
9 plan does not appear to be feasible without that income.

10 d. *Mortgage payments*. The debtor testified that she intends to retain the real
11 property and make the ongoing payments once the correct servicer can be identified (see
12 Adv. Proc. 15-06085-fra). However, Schedule J does not account for this mortgage payment.
13 (The \$895 expense on line 4 is the rent payment for her residence.)

14 e. *Plan payments to Bank of New York Mellon*. Paragraph 2(b)(1) of the Plan provides
15 that the Bank shall be paid \$900 each month on its arrearage claim. After deducting the
16 trustee's commission, the trustee cannot pay \$900 to the Bank if the plan payments are \$900.

17 **3. Other Document Deficiencies**. The trustee believes the following issues should
18 be resolved before the plan is confirmed:

19 a. On Schedule A the debtor has valued her real property at \$46,000. At the meeting
20 of creditors she testified that the value is closer to \$250,000.

21 b. On Schedule B the debtor has not provided a description of each of the types of
22 property listed on the Schedule. The trustee reserves the right to reexamine the best interest
23 number in light of the amended Schedules, when filed.

24 c. Schedule I, line 8h, should be amended to reflect the \$200 monthly contributions
25 that each of the debtor's children contribute the household expenses.

1 d. In Statement of Financial Affairs #1 the debtor lists only "\$5,793 – House
2 Cleaning DBA". She does not indicate which year these funds were received or what her
3 income was for the other years within the two year period preceding the bankruptcy filing.

4 e. Form 22C indicates that the debtor has below median income. As such, Plan
5 Paragraphs 1(c) and 7 should have the 36 month boxes checked rather than the 60 month
6 boxes.

7 f. Plan Paragraphs 2(b)(2), 2(b)(5), 3, and 4 are all blank.

8 4. **Further Documentation Needed.** The trustee requests copies of the following
9 documents:

- 10 a. Most recent real property tax statement from Josephine County.
11 b. Copies of the debtor's bank statements for all bank accounts for the two months
12 prior to filing, covering the date of filing (8/20/15).
13 c. Signed copies of the debtor's 2014 tax returns.
14 d. A copy of the debtor's business registration with the state.

15 5. **Motion to Dismiss.** The trustee moves the court for an order dismissing this case if a
16 plan cannot be confirmed within a reasonable time.

17 DATED this 16th day of October, 2015.

18 NALIKO MARKEL, TRUSTEE

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20 By: /s/ Andrea Breinholt
21 Andrea Breinholt, OSB No. 092975
22 Staff Attorney
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